



Missouri Department of Natural Resources

MINUTES MISSOURI SOIL AND WATER DISTRICTS COMMISSION DNR CONFERENCE CENTER Jefferson City, Missouri JUNE 5, 2003

COMMISSION MEMBERS PRESENT VIA TELEPHONE: John Aylward,
Elizabeth Brown, Larry Furbeck, Philip Luebbering

**ADVISORY MEMBERS PRESENT: SOIL & WATER CONSERVATION
PROGRAM:** Sarah Fast; **NRCS:** Roger Hansen via telephone; **MASWCD:** Peggy
Lemons

STAFF MEMBERS PRESENT: Gary Baclesse, Jim Boschert, April Brandt, Noland
Farmer, Rose Marie Hopkins, Dean Martin, Theresa Mueller, Marcy Oerly, Kevin
Scherr, Alice Schultz, Judy Stinson, Ken Struempfler

OTHERS PRESENT: STATE OF MISSOURI: ATTORNEY GENERAL'S OFFICE:
Harry Bozoian; **NATURAL RESOURCES:** Aimee Davenport; **OTHERS: MLICA:**
Debbie Dickens via telephone

A. CALL TO ORDER

Chairman Elizabeth Brown called the meeting to order at the DNR Conference Center in Jefferson City, Missouri, in the Taum Sauk Room at 8:04 AM.

B. FOLLOW-UP: STATE COST-SHARE RATES FOR FY2004

Sarah Fast reported that, if the Emergency Rule was in place by July 1, 2003 or as close as possible to that date, the districts would have six months to obligate its cost-share allocation at 75 percent. This would be under the auspices of the emergency rule. Program staff understood that the landowner could claim 75 percent cost-share after the Emergency Rule expired if he had been approved at 75 percent under the Emergency Rule. Ms. Fast said that some districts might have to adjust local policies regarding termination dates. By using this approach, she said that the final rule change could be in effect by the time the next appropriation would be approved.

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The commission also discussed using the Variance Rule option at the last commission meeting. Ms. Fast said that, according to legal counsel, would be allowed. Harry Bozoian said that many cost-share practices would be eligible for the reduced amount of 50 percent because of the NRCS change in its cost-share rate. He suggested proceeding with the Emergency Rule and final rule change. During any gaps when 75 percent cost-share would not be available, Mr. Bozoian said that the Variance Rule could be used. He proposed that a form be given to the districts that outlined the requirements of the Variance Rule. The commission could give program staff the authority to approve the applications under the Variance Rule. Landowners that submitted applications when the Emergency Rule was not in effect would receive both the application and the variance form, which the landowner would need to sign.

In response to a commission question, Mr. Bozoian said that the Variance Rule could be used until the rule change was approved if the Emergency Rule was denied. However, he felt that it was probable that the Emergency Rule would be approved. When asked by Larry Furbeck, Mr. Bozoian said that any challenges to the Variance Rule would be based more on the broad picture; such as, whether the commission's regulations should have been such that there would have been no problem in the first place. He said that the Variance Rule was written more for individual landowner applicants. In response to the commission, Sarah Fast said that the worst case scenario was that there would be a six-month gap between the end of the Emergency Rule and the final rule.

Larry Furbeck made a motion to proceed with the Emergency Rule as soon as possible and the Variance Rule would be used as advised by the Attorney General's Office. Philip Luebbering seconded the motion. A poll vote was called. John Aylward, Larry Furbeck, Philip Luebbering, and Elizabeth Brown voted in favor of the motion. The motion carried unanimously.

Ms. Fast said that district boards could approve applications at 75 percent beginning July 1 and, if the Emergency Rule were not approved, the boards would then need to get the landowners' signatures on the variance form that would be created by program staff. She said staff would get a memo out to the districts explaining the commission's decision as soon as possible.

Sarah Fast informed the commissioners that the State Auditor's report was scheduled to be issued late afternoon on Friday, June 6, 2003. She said that it would be available on the State Auditor's web page.

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C. ADJOURNMENT

Larry Furbeck made a motion that the meeting be adjourned. Philip Luebbering seconded the motion. The motion was approved by consensus of the commission at 8:20 AM.

Respectfully submitted,

Sarah E. Fast, Director
Soil and Water Conservation Program

Approved by:

Elizabeth Brown, Chairman
Missouri Soil & Water Districts Commission

/as